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OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMM

TO : Bryant L. VanBrakle

DATE: January 8, 2004

FROM : A. Paul Anderson, Commissioner

PA

SUBJECT : Meeting Regarding Comments of American President Lines, Ltd and APL Co. Pte., Ltd in Reply to Petitions Nos. P3-03, P5-03, P7-03, P8-03, and P9-03

On January 8, 2004, I met in my office with Robert T. Basseches, Counsel with Shea & Gardner; David B. Cook, Counsel with Shea & Gardner; John G. Reeve, President, Reeve & Associates; Robert Sappio, Senior Vice President Transpacific Trade, APL Limited; and Eric R. Swett, Associate Counsel Legal Department, APL Limited, at their request, to hear their views on the issue of granting non-vessel-operating common carriers (NVOCCs) contract authority. My counsel, Lucille A. Streeter, was also present.

Mr. Sappio provided a brief history of APL and its importance to both the U.S. economy and national security interests. He explained that U.S. flag ships play an important role in national security by making their assets available to the government in times of emergency. As an example, he noted the significant role that APL has played recently in the military and reconstruction campaigns in Afghanistan and Iraq. He stated that APL is a high service carrier that has introduced numerous innovations in ocean liner transportation. If the relief sought in the petitions is granted, Mr. Sappio stated that there would be serious consequences for vessel-operating common carriers (VOCCs). Therefore, Mr. Sappio explained that APL seeks to have the Commission thoroughly investigate the issues raised in the petitions.

Mr. Sappio stated that VOCCs make significant investments in their water-borne assets, thereby incurring risk. He argued that the competitive advantage they gain through their use of confidential service contracts is an earned advantage that takes into account the risks they incur. He stated that, contrary to arguments made in the petitions, logistics companies affiliated with VOCCs do not have a competitive advantage over NVOCCs not so affiliated. He stated that affiliated logistics companies are not cargo traps for their affiliated vocc, and they are charged the same carrier rates as non-affiliated

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Nvoccs. Mr. Sappio stated that if the authority sought in the petitions is granted, the NVOCCs will aggregate volume, leverage the VOCCs down on price, and ultimately cause the VOCCs to go out of business. Mr. Sappio noted that in addition to having a negative impact on U.S. ocean-borne commerce, a decrease in vessels would adversely impact U.S. national security.

Mr. Basseches stated that there needs to be a factual record developed in order to properly address the issues raised in the petitions, and the Commission has the expertise and the opportunity to develop the facts. Mr. Reeve stated that evidence is currently available showing that revenues for companies like UPS are growing faster than liner revenues, indicating that they already have economic leverage.

Mr. Sappio noted that since the enactment of the Ocean Shipping Reform Act of 1998 (OSRA), VOCCs have begun to define their services and products and are becoming more efficient. If NVOCCs are granted the authority to enter into confidential service contracts, improvements in VOCC's efficiency and service will stop. Mr. Reeve stated that NVOCC's current level of market power may explain why APL was the only VOCC to file comments responding to the petitions. Mr. Reeve stated that UPS already has the ability to do what it is requesting in its petition, and he noted that there is disagreement among NVOCCs as to what course to take on the issues involved in the petitions. I concluded the meeting by thanking them and stating that the issues raised are complex and deserving of careful, expeditious attention by the Commission.